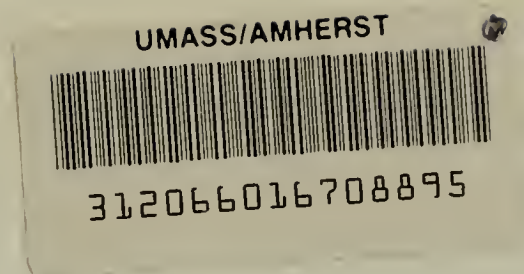


MASS. AG1.2: A744



Arson Prevention Manual



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MAR 20 1983

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ACKNOWLEDGEMENTS

We would like to thank the current and former employees of this Department and the many people from other public agencies, the FAIR PLAN and various community groups, all of whom contributed to the success of the CAPES project. Among them, Dan Jaffe and Dave Scondras deserve special credit for initially getting the project off the ground.

Thanks are also due to the CAPES Staff for their involvement in the writing of this manual, particularly Joe Murphy and Mike Friedland, and to Fran Sacchetti for her limitless patience in making a never-ending series of revisions.

This manual was supported by Grant Number 80CJ-AX-0004 awarded by the Law Enforcement Assistance Administration, United States Department of Justice. Points of view or policy positions stated in this Publication are those of the Massachusetts Department of the Attorney General and more particularly of the staff of the Comprehensive Arson Prevention and Enforcement System (CAPES). Our statements do not necessarily represent the official positions of the United States Department of Justice.

At the date of this writing, LEAA is no longer a viable entity. Federal funding for our arson prevention program ceases on October 31st. Since the state has declined to provide an appropriation to replace the federal funding, CAPES too will pass out of existence on the thirty-first. Of course, the Department of the Attorney General will continue in its endeavor to provide anti-arson services. However, its ability to do so has been seriously compromised by this lack of funding.

These events make this Arson Prevention Manual a document of critical importance. Arson continues to ravage the country's older urban areas, and what we have learned about arson prevention here in Massachusetts simply cannot be permitted to die with LEAA and the CAPES Unit. In making our program a national model, the Justice Department's ultimate aim was undoubtedly to institutionalize the anti-arson effort. If, through this manual, we can pass on our knowledge and system so that future anti-arson units can build from our experience, we will have significantly advanced that goal.

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October 28, 1982

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INTRODUCTION

The purpose of this manual is to inform and assist any public official, business person or private citizen who is concerned about the problem of arson in his or her community and is looking for ideas about possible ways of dealing with it.

In March, 1980 the Law Enforcement Assistance Administration awarded a grant to the Massachusetts Department of the Attorney General to establish a Comprehensive Arson Prevention and Enforcement System, known as the CAPES Project. Its purpose was to coordinate and concentrate the efforts of the many public and private agencies, groups and individuals who have roles to play in attacking the problem of arson.

This project included all of the traditional approaches to fighting arson. It emphasized cooperation among the State Fire Marshal, the Attorney General's Office and local arson squads in criminal investigations and prosecutions. It provided staff for the State Fire Marshal to improve the collection and processing of pertinent data, and it supported specialized training programs through the auspices of the Massachusetts Fire Academy and the Massachusetts Criminal Justice Training Council.

This portion of the project was essentially reactive. It addressed the crime of arson after it had been committed. Such a traditional approach, however, is of little consolation to the victims of arson who have lost their homes and their personal possessions. Nor is it of help to those whose lives are lost or endangered. It was in order to address these particular needs, that a portion of the CAPES Project was designed to emphasize the *prevention* of arson. It was here that the program was most innovative.

In 1978, the Attorney General prosecuted thirty-three individuals who had been involved in a major arson conspiracy in Suffolk County. It became clear from this experience not merely that arson conspiracies can be extensive and complex, but also that arson usually follows a definite pattern. The purpose of the Prevention Component of the CAPES Project was specifically to discover such patterns early enough to take preventative action.

To discover patterns of arson, investigators must understand the dynamics of the affected areas and the status of the buildings in question. The main objectives of arson prevention are to identify those buildings which appear to be in the greatest risk of burning, and then to take steps to reduce that risk.

Preventative measures require the cooperation of many individuals and agencies. These include public agencies or units, such as those involved with fire prevention, code enforcement, real estate taxes, tax assessments, real property and development or housing improvement programs. A helpful role should also be played by insurance companies, banks and other lending institutions. Finally, the cooperation of community groups and tenant organizations is critical.

This manual is intended to describe the roles of these players in an arson prevention program. The reader will find it necessary to modify some of our ideas in order to take local conditions into account. For those who become involved in setting up such a program in their community, however, the members of the Attorney General's Arson Prevention Unit will be pleased to share their thoughts, advice and experience.

CHAPTER ONE

ESTABLISHING THE PREVENTION UNIT

Prevention measures require the coordinated efforts of many individuals and agencies who are often concerned with matters other than arson. Therefore, the first and most essential step in a Comprehensive Arson Prevention Program is the designation or appointment of an arson prevention specialist whose undivided attention can be focused on the problem. The prevention unit must have at least one full-time person who can view the problem from a broad perspective, formulate and recommend a coherent policy, and coordinate the proper actions.

If your arson problem is extensive and the resources are available, a larger unit may be desirable. This manual, however, does not propose a specific staff size and structure. Those are decisions which you must make on the community level. Our suggestions are meant only to stimulate your thoughts.

The two most important considerations when you are trying to determine the size, structure and staffing of the unit, are that a successful prevention program requires:

1. a thorough understanding of the specific problems in the community which lead to arson, and;
2. the ability to take effective countermeasures to alleviate these problems.

Understanding the Specific Problems

While arson problems are usually categorized according to motive (for example, profit, revenge or vandalism) you will find on closer inspection that the specific causes and the available remedies are unique to your community and to the specific problem at hand. To be sure, your unit must begin with a general knowledge of the motives and methods of arsonists, but the difficulty will come when you begin to apply this knowledge to the specific situation.

To fully understand a given problem, you must conduct extensive document research. This will be discussed later in the manual. Just as importantly, however, you must be able to communicate with a wide variety of people who view the problem from different perspectives. This includes community group representatives, property owners, law and code enforcement personnel, municipal department heads and elected officials. All of these people shed some light on the subject, and most can play an important role in the prevention effort. The members of your prevention unit must be able to develop a rapport with these people. This is often a difficult task, but its importance should not be underestimated. This ability is one of the most important factors to consider when selecting personnel.

Taking Effective Countermeasures

Some of the prevention measures discussed in this manual require action by governmental agencies, while others rely on the voluntary cooperation of private individuals. The inter-

personal skills referred to above will be helpful in dealing with both groups, but the art of gentle persuasion is sometimes not enough.

Public officials often resent outsiders telling them how to do their jobs. This is true even when these outsiders are other public officials. The resentment will be greatest when your advice involves how they should spend their money and man-hours. As an outsider, you can sometimes force compliance through the threat of legal action, but long term cooperation is more likely if your program has received a strong commitment from the highest political level in your community.

Most of the countermeasures which require governmental action involve *municipal* departments. These include: the fire, building and housing inspection units; the tax and assessing departments; the real property department; economic development agencies; and housing assistance programs. To insure that these agencies are fully cooperative, the prevention unit should be set up to report directly to the chief executive of the city or town. The decisions required to design and implement an anti-arson strategy must be made at that level. Whether a person directly reporting to the chief executive is involved in your program on a full-time or part-time basis, the important concern is that your prevention unit must have the influence and authority it needs.

The Attorney General's Arson Prevention Unit

This section describes the Attorney General's Arson Prevention Unit as it has operated within the City of Boston. As stated above, we are not suggesting that this is a model to be copied exactly by other agencies. It is intended principally to encourage thought about what might work and what might not work in your community.

The staff of the Attorney General's Arson Prevention Unit consisted of the following: one (1) Chief Attorney, one (1) Attorney, one (1) Principal Investigator, two (2) Investigators and one (1) Administrative Assistant.

The Chief Attorney set the priorities of the Unit and directed the overall prevention effort. His duties included the following:

1. deciding when to begin and/or end investigations;
2. selecting the buildings and/or neighborhoods to be given priority in the prevention effort;
3. determining when specific legal action was possible as part of a prevention strategy;
4. deciding which prevention strategies to employ; and
5. directing the implementation of those strategies.

To perform these tasks he required reliable information and a solid analysis of the problem. For this reason, the role played by the investigators was essential. Their duties were:

1. to interview property owners, managers, tenants, fire officials and others in order to gather data pertaining to actual or potential cases of arson;

2. to research public documents in order to ascertain such facts as the history of property ownership, code violations, etc.;
3. to analyze the results of research and interviews in order to discern patterns;
4. to identify buildings which were in greatest danger of being burned;
5. to recommend appropriate preventative strategies; and
6. to take such preventative measures as organizing fire watches, mediating landlord/tenant disputes, etc.

The duties of the second attorney were to assist the investigators in the performance of some of their tasks, such as in interviewing tenants or landlords and in mediating disputes. He also researched law and code violations, recommended legal strategies and litigated cases.

The Administrative Assistant provided the secretarial and clerical support for the unit. She also played an important role in the process of gathering and analyzing information. She reviewed the investigators' reports and selected important data from them which she would then put into a cross-reference index.

When you are structuring your prevention unit, concentrate on the individual duties we have listed for each of these positions, rather than on the positions as a whole. You may prefer to assign the responsibilities in a different manner. In some circumstances one person could conceivably perform all the functions of the unit. In other cases, several people could become involved on a part-time basis. The size and composition of the staff needed in your community will gradually become clear as you gain experience and identify your specific problems in greater detail.

CHAPTER TWO

IDENTIFYING THE ARSON PROBLEM

The first step in combatting arson is discovering that an arson problem, in fact, exists. It must then be determined why the fires are occurring and how they may be reduced. Through our experience, we have learned that fires are often the symptom of a larger problem, rather than the problem itself.

There are two general types of arson problems. The first is the occurrence of several fires in a specific building. The second is the occurrence of fires in numerous buildings. To distinguish which of these problems exists is relatively easy. To determine why these fires are occurring is more difficult. This chapter will explain the process of identification, which consists of the development of current fire patterns and the projection of potential fires. The following chapters will address ways to immediately reduce the number of fires with the long term goal of eliminating the underlying causes.

Researching Fire Statistics

To determine that an arson problem exists you must first research raw fire data. First, you should list the total number of fires during a specific time period. Then determine how many of those fires were “legitimate” (that is, accidental, electrical, cooking, etc.) and how many were listed as incendiary (arson), suspicious, or undetermined. For the purpose of this research, fires attributed to vandals should be listed as incendiary or suspicious, not as being due to legitimate causes, and fires with multiple points of origin should be listed as incendiary, not suspicious. (A point of origin is the exact area where the fire started.) You should then focus on those fires which were not legitimate.

The next step is to categorize these non-legitimate fires by 1) type of structure burned, 2) time of occurrence, 3) point of origin and 4) method used to set the fire (if known). You should go on to categorize them by geographic area, neighborhood, street, or individual building. If the problem is with an individual building or street, it will be obvious early in your research. If your problem appears to involve more than one building, chart the fires on a map. Make separate maps with common factors (same point of origin, time period, type of structure, etc.) or indicate these common factors on one map by using different colors or markings for each. Patterns will begin to emerge which show whether you have an arson problem and, if so, what its nature and magnitude are.

Analyzing Patterns

You should be constantly looking for patterns in this data. Whenever a new factor is added to your profile of a target building, the pattern which emerges will become more specific and useful. As you search for these patterns, you should also add non-fire related information, including the economic characteristics of the building or buildings being burned.

1. *Type of Structure Burned*

The type of structure being burned should first be listed as vacant or occupied. These are further separated into *residential* (single-family or multi-family dwellings) or *commercial/industrial* (storefronts, larger industrial buildings or office buildings). It is important to isolate the type of structure burned in order to later determine the motives for these fires. It should be noted whether the building was insured and the amount and name of the insured.

2. *Ownership of Buildings Burned*

While all of the above information is readily obtainable, a more difficult task may be to determine who owns, or controls, or has any financial interest in the buildings you have thus far indentified. The actual process of obtaining this information will be discussed later; it should be stressed here that the use of this data is very important in identifying the problem. Careful research in discovering the ownership of the buildings will indicate whether one person, group or business entity is suffering more than its share of fires, or whether you should look into other possibilities. This in turn is important in identifying the underlying problems and motivations and in deciding which strategies are appropriate to reduce the fires.

3. *Neighborhood*

In what type of neighborhoods are the fires occurring? Is the neighborhood undergoing development, rezoning or other changes? If apartment buildings are being burned, obtain information on the rental housing market. Is the area undergoing "gentrification" (influx of higher income individuals)? Are condominiums being created by converting former rental units, and are rent levels below or above the market level? Is the land more valuable than the building (for example, would a parking lot generate more income)? Are roads or transportation facilities being rerouted? (This may result in fires due to the expected loss of business or to the prospects for a more profitable use of the property such as hotels, office buildings or shopping plazas where storefronts, small apartment houses or slum buildings now stand.)

4. *Financial Problems*

You should identify any mortgages, liens, or attachments on the properties being burned. This may indicate financial problems, such as excessive debt or lack of cash. If they all have the same mortgage company, bank or lien holder, it may indicate that buildings ostensibly owned by one party are actually controlled by others. Property research will also reveal whether the buildings are about to be foreclosed for non-payment of either mortgages or real estate taxes. (This will be explained in more detail in the following chapter.)

Are there outstanding building, health or housing code violations against the building? The cost of repairing these violations may be greater than the income from the building

would justify. If there are active tenant organizations, they may be pressuring the landlord through court actions, rent withholding or demonstrations, all of which are costly or could hurt his reputation in the business community. Small fires in a building may indicate a desire to empty the building of tenants without causing injuries. This may be done so that the building could later be either gutted and renovated or totally burned to obtain the insurance coverage.

If commercial or industrial buildings are being burned, it must be determined whether these businesses are having financial problems. There may be new developments in the area, or rent in the buildings may have been sharply increased, forcing the businesses to relocate. Other economic factors may discourage continued business operations and lead to a fire which would provide insurance proceeds enabling the business to finance a move.

5. *Code Violations and Tax Delinquency*

The existence of building conditions which violate the health, safety, building or sanitary codes is an indicator of a possible fire target, regardless of whether these conditions have actually been cited by code enforcement agencies. Real estate tax records should also be researched to determine whether the owner is tax delinquent. Tax delinquency, particularly when it exists in combination with code violations, may indicate financial trouble or that income generated by the building is being taken by the owner as profit while little or no money is spent on maintenance, repairs, real estate taxes, or water and sewer bills. This is sometimes colloquially referred to as “milking” a building. It results in a decline in the condition of the building, creating fire and safety hazards.

As heating systems fail, some occupants use space heaters, kitchen stoves, and ovens (or other means) to keep warm. Although lack of heat may not cause an arsonist to set a fire, fires can result from circuits being overloaded by space heaters in operation for long periods of time. In many of the older structures, the electrical service is not adequate for modern appliances. Residents use extension cords and multi-plug socket adapters to remedy the lack of electrical receptacles and in this way further overload circuits. Our investigators have found space heaters plugged into extension cords which were hot, as was the wall receptacle to which they eventually ran. In some cases, entire families have slept on mattresses in front of the kitchen stove, when their central heating stopped functioning.

Unrepaired leaks can result in hidden structural and electrical wiring deterioration. Lack of heat leads to frozen pipes and lack of water. Insufficient common area lights and the absence of smoke detectors jeopardize the lives of occupants in the event of a fire. As the structure deteriorates, secondary means of escape (rear porches, stairways or fire escapes) often become unsound and do not provide safe exit. Due to this neglect, the cost to repair the building or pay the back taxes can far exceed market value, leaving abandonment or arson as the only way out for the building's owner.

6. *Vacant Structures*

If vacant buildings are being burned, it must be determined whether they are insured, who owns them and what is happening in their neighborhood. Are only wooden structures being burned or also vacant brick buildings? Do youths congregate at the vacant buildings? Are the buildings tightly secured? Knowledge of the time of the fire, the point of origin and the method used (accelerants, trash set on fire, molotov cocktail) is crucial in determining which fires have common factors and who may be setting them. You may never apprehend the perpetrators, but if you know how the fires are set, you can address and may be able to eliminate the circumstances and the means used to set the fires.

Targetting Arson-Prone Buildings

Once the above factors are analyzed and you discover a pattern to the buildings being burned and their locations, potential arson-prone buildings must be identified. This is accomplished by applying your arson pattern to buildings not yet burned.

If, for example, your arson pattern involves vacant buildings in a certain geographic area, that area must be canvassed and all unburned vacant buildings identified. If the arson pattern reveals that the fires are occurring in apartment buildings of a specific owner in various areas of the community, then all other apartment buildings owned by this individual must be identified. If one building in an area is suffering two fires a week between 1:00 A.M. and 3:00 A.M. over a period of three weeks, for example, then this individual building is identified as having a fire problem. Finally, if your fire pattern shows that all the buildings suffering fires have outstanding health and building code violations for lack of secondary egress and court action is pending, then similar buildings with pending court action for these code violations should be identified.

Each of the identified patterns then provides a target for arson prevention strategies. The proper strategy is determined by the nature of the arson or fire pattern. Sometimes more than one category may apply and a combination of strategies will be necessary.

After this type of program has been operating for a period of time, the members of the arson prevention unit should be able to identify buildings prone to arson before any fires actually occur. Our experience has revealed that fires very often will occur in: areas designated for urban renewal which will cause major changes in the neighborhood; areas or buildings designated as historically significant, which may limit their future use or renovation possibilities; and buildings which the owners have milked to a point where no more profit can be realized except through insurance proceeds from fire. A "windshield canvass," done by driving through a neighborhood periodically, will show changes such as: which buildings are deteriorating; which have become vacant; where rehabilitation is taking place; and whether there are demographic shifts in the population. All of these are indicators of potential fire problems.

CHAPTER THREE

DEVELOPING BUILDING PROFILES

This chapter explores, in detail, the information necessary to target specific buildings in a neighborhood which may be prone to arson. The most reliable sources of information about past and future arson problems are: street information; public records concerning both buildings and their owners; and fire patterns comprised of data gathered from fire reports. From these three sources, warning signs may be recognized which can lead to an educated judgment as to those buildings on which you should concentrate your resources.

Objectivity is crucial in selecting target buildings. In every neighborhood there are numerous theories offered to explain why an arson problem exists. Landlords and tenants blame each other. Neighbors allege that both landlords and tenants are to blame. Some will place the blame for many fires on vandals and children. In arson prone areas, suspicion runs rampant. Your goal is to separate rumor from fact and base your prevention strategy on the true causes of the fires.

Surveying the Affected Area

Following the selection of a target area, a windshield or walking tour of the area is necessary. The purpose of the tour is to get a feel for the neighborhood and its dynamics.

Obtain or construct a street map of the areas and note the addresses of vacant and/or fire damaged buildings, as well as of buildings in disrepair. It is a good idea to bring a camera to photograph those buildings which you consider possible target buildings. Later, these photographs will be useful in documenting the condition of specific buildings and in setting the priorities for prevention strategies.

During the area survey, note the following:

- 1) types of buildings in the area: single family homes, apartment houses, commercial property or a combination of the above;
- 2) type of building construction: wood, brick or other building material;
- 3) the location of vacant buildings and whether they are secure;
- 4) the location of buildings showing signs of fire damage;
- 5) the location of gathering places for groups of children or teenagers.

Speak to those who know the area best. Insight into a neighborhood arson problem is obtainable from police and firemen, code inspectors, municipal government workers, businessmen in the neighborhood, community groups and tenant organizations. Most importantly, talk to the residents of the area. The street information gathered may lead to an understanding of the causes of a neighborhood arson problem. Remember street information is only as good as the source it comes from. Rumor must be substantiated by hard facts.

Researching Public Records

Basic public record research is necessary for any building considered as a possible target

building. It may become essential to research the ownership of each building on a particular street or in a neighborhood. The records needed are all public records and can be obtained at your city or town hall and at your registry of deeds. (Our references to the location of records pertain to Massachusetts and particularly to the City of Boston. You should become familiar with the location of comparable records in your community.) A thorough public record check may initially appear to have little value; however our experiences have demonstrated that it is crucial in the determination of target buildings. Therefore you must become familiar with the laws of your jurisdiction pertaining to real property ownership.

In preparing a building profile, determine the ownership of the building. This can be done by first reviewing records kept at the assessor's office. In these records, you will find the name of the assessed owner, zoning requirements, assessed real estate taxes and the book and page reference for the deed at the registry of deeds. Often property ownership in the assessor's records is out of date by one or two years.

To determine the current owner of a building, research the records located at the registry of deeds. In Massachusetts, the registries are indexed by name. First, locate the most recent deed on the property and then note any mortgage, lien or attachment presently in force. After determining the present owner, research the building's ownership back in time about ten years. As a result, you will have an historical perspective of the building's ownership and finances. Once again, note all the deeds, mortgages, liens and attachments.

While at the Registry, *research the present owner for other property owned in the county.* By doing this, you will learn whether he owns one or more buildings. Check each address for fires through the fire department's records. You want to know as much as possible about each building owner and the people who finance him.

When you determine the building's owner, *check the tax collector's files to determine whether there are unpaid back real estate taxes.* Tax collector's records typically state the amount of money owed, the years for which taxes are owed and whether the property is in tax title. If a property is in tax title, it is possible that the city has begun court proceedings to foreclose and ultimately take the property for non-payment of real estate taxes. If such is the case, a foreclosure petition number should appear on the tax title folder. Note the case number of the tax foreclosure in order to find the case in land court.

While at city hall, *research the code enforcement files located at the building department.* These files contain notices of violations, permits, and any changes in the occupancy of a building. Note any reports of violations or inspections, as well as structural, electrical, plumbing and gas permits. Be sure to include dates; names of inspectors, contractors, and owners; the type of work done; the cost of the work; the reason for any violations; court docket numbers; and the disposition of cases.

Some large cities have housing inspection departments whose job it is to inspect buildings for housing code violations. These violations may include lack of heat, insect or rodent infestation, and unhealthy or hazardous conditions in a building. Check their records and make note of

dates, names of persons making complaints, reasons for complaints, inspectors, case numbers of any court actions and final disposition of the complaints.

Locate the owner of the building in question. Begin by checking the addresses for him which you found in your public document research. If unsuccessful, try the phone book, the city directory, the registry of motor vehicles, the city election commission or the records of forwarding addresses which are kept by the local post office.

Determine whether the building is insured. In Massachusetts, law enforcement officials or tenants can, in many cases, request fire insurance information from residential building owners. (See the section on insurance in Chapter 4.)

Analyzing the Data

In order to judge whether a building is arson prone, all the information you have gathered must be put into a manageable form. The most efficient way to compile this information is chronologically.

Arson is often financially motivated when a building is generating less money than is needed for debts and upkeep. Consider targetting buildings which are under threat of foreclosure, either by mortgagees or by the tax department. Also watch for buildings sold a number of times in a short period of time with the price increasing rapidly after each sale.

To determine whether a building is overinsured, total up the amount of mortgage monies owed and compare this with the amount of insurance. Unless property values in the area have increased greatly since the mortgages were granted, the insurance should not be much more than the mortgage total. If a building is overinsured, notify the insurance company involved and treat this as a target building.

Our experience has shown that next to vacant and abandoned buildings the most likely structures to have arson fires are buildings owned by an absentee landlord who has a history of fires. Those buildings least likely to have an arson fire are those occupied by the owner.

In assessing absentee landlords, consider the following criteria which may be indicative of potential arson:

- 1) Prior fires in any of their buildings which were listed as suspicious, incendiary or undetermined in cause;
- 2) A small warning fire (usually in a common area, vacant apartment or rear porch) which would evict the tenants;
- 3) A number of fire insurance claims and settlements;
- 4) Excessive insurance on the property;
- 5) A recent request to increase the amount of fire insurance;
- 6) Property lacking in maintenance or repair;
- 7) Landlord/tenant disputes;
- 8) Problems with neighbors;
- 9) A number of mortgages to individuals rather than banks;

- 10) A number of sales of the building within a short time span which rapidly escalate the value of the building;
- 11) Impending lawsuits or foreclosures;
- 12) Planned changes in the building such as condominium conversion or rehabilitation.

One indication of an immediate arson threat deserving of special emphasis is a heated landlord/tenant dispute. By speaking with the tenants and the landlord, you will know whether this situation exists. Naturally, you must thoroughly understand the dispute in order to deal with the danger it presents. Researching court records will document whether the dispute has resulted in legal action. These cases are found either in housing or district court. Research these files by checking the landlord's name in both the plaintiff and defendant docket index. These disputes can become quite serious and can result in arson caused by either party.

Often absentee owners use what are called "straws" to hide the true ownership of a building. A straw is someone who allows his or her name to be used on the deed as the legal owner without actually collecting the financial benefits. Straws are widely used by people who do not wish to be identified as owning a particular building. Straws are usually judgment-proof, that is they have little or no money or assets which could be taken from them through legal action. Straws are often used to hide the true ownership of run-down property.

In order to determine whether a building owner is a straw, background research must be done on the individual. Straws are often secretaries, maintenance men, building superintendents, unemployed persons, or in some situations simply do not exist. Other ways to determine straws are to:

- 1) ask the tenants who collects their rent and to whom they make their checks payable;
- 2) review fire insurance applications to determine who the loss payee is;
- 3) speak to mortgagees of the property, especially if the mortgage is held by an individual.

Although home owners are least likely to suffer an arson fire, it does occasionally happen. Warning signs to watch with an owner-occupied building are:

- 1) The owner has a history of fires in buildings owned;
- 2) The owner moves expensive goods or cherished items from his home such as jewelry, furs, televisions, stereos, and important papers;
- 3) The owner requests substantial fire insurance increase;
- 4) There is an immediate threat of foreclosure;
- 5) There are cuts in essential services such as electricity, water and/or gas;
- 6) There are problems with neighbors and/or neighborhood children.

Developing building profiles requires significant time and effort. However, as a result of the time and effort invested, you will be able to determine exactly who has the financial motive for an arson fire. In the next chapter, we will discuss strategies to deal with the buildings you have targeted as being arson prone.

CHAPTER FOUR

IMPLEMENTING PREVENTION STRATEGIES

There are various strategies which can be employed in addressing target building problems. These strategies are primarily based on the concept that “arson-for-profit” is a rational business decision often motivated by greed. We have found that even in cases where this concept is not the principal motive for the specific fires, it is usually a major factor in allowing the situation to develop which now contributes to these fires. An example of the latter case is a landlord who milks his property over a period of years until it deteriorates to an uninhabitable condition and is then abandoned. This abandoned building is an invitation for someone to set it on fire for any number of reasons. The long-term goal of your arson prevention strategies is to stop as early as possible the practices which result in these fires. In essence, the aim is to change the existing situation so that it becomes more risky or costly to *have* a fire than to *prevent* one.

The arson problems to which these prevention strategies will be applied fall into four general categories: owner-occupied buildings, absentee-owned buildings, vacant structures, and specific neighborhoods. A certain degree of creativity and discretion must be utilized by the prevention staff in applying each strategy.

Making Fire-Setting Difficult

The immediate goal of the program is to prevent any additional fires from occurring. This is begun even while the causes or motives behind the earlier fires are still being analyzed. To accomplish this, you must move quickly to eliminate the means of setting a fire and to increase the probability of identifying anyone who tries to set one. The tactics used to do this are the following:

1. Speak to as many residents or occupants as possible, whether your target is a neighborhood, a group of buildings or a single building. Explain that a potential arson situation exists and that you need their cooperation. Emphasize that you are helping them to avoid the injuries and property damage which could result from an arson fire near them. Provide telephone numbers of police and fire departments, arson hot-lines, etc. Distribute information on basic fire prevention methods, such as “Ways To Stop Arson” flyers. Create an atmosphere of awareness to the arson problem and make it understood that the people who are always present (residents, storeowners, children on the street) must be alert to any suspicious activity. Give out your telephone number and urge people to keep you informed of unusual activities or any changes in the situation. When they do call, be polite and receptive. You can decide later to what extent the call was relevant and whether it was a nuisance or grudge call. Try to determine the truth of what may come to you as rumor. Remember that even a rumor can give you a clue to the problem.
2. While at the target site, check for any conditions that could be changed to reduce the

likelihood of fires. Work on having trash and combustible or flammable materials removed or secured. See that access doors to the target building are locked or secured and determine who has keys to these locks. If smoke detectors and alarm systems are present, see that they operate correctly. Where smoke detectors are lacking, request that they be installed.

3. Make your presence known and be visible. This will contribute to the belief not only that if someone starts a fire, he will be caught, but also that your agency or group will follow through with appropriate legal action against the arsonist.
4. Speak to each party (such as the landlord or an irate tenant) who could conceivably want a fire in your target building. This will provide you with additional information and will put them on notice that they are being watched.

Obtaining Insurance Information

Send the owner of your target building a letter requesting the following information:

1. The name of the company that insures the building against fire;
2. The exact name and address of the insured or beneficiary of the fire insurance policy; and
3. The amount of insurance carried.

Also request a date and time to meet in order to discuss the problem concerning his building.

If you have the statutory authority to obtain insurance information, you should state in your letter the source of that authority and any penalty for non-compliance. Even if you do not have statutory authority, send the request. If the owner does not respond, try to have an agency which may have authority under your local laws (for example, the State Fire Marshal; the Insurance Commission; a local, state or federal law enforcement agency) to ask for the information. (In Massachusetts, Chapter 186 Section 21 gives the State Fire Marshal, law enforcement agencies and tenants of the building the right to this information for a residential property, unless it is owner-occupied and has four units or less.)

The purpose of sending this type of letter is twofold. First, it notifies the owner of the building that your agency is aware that there are problems concerning his property. This may prevent the owner from burning it, if that was his intention. Secondly, a response should provide you with some basic insurance information. You should then contact the insurance company and request all possible information on the building, its owner, the loss payees and the terms of the policy (to the extent that applicable statutes allow). Note how much the premiums cost, whether claims have previously been filed for fires or other losses and who was paid on these claims. This information should be added to your profile. If your examination of the building and the insurance information indicates that the building is overinsured or no longer in the condition thought by the insurance company, ask the company to inspect the property and, if appropriate, cancel the policy.

Carefully review the policy application and compare the information given by the insured with the information you have gained in your profile research. Particular attention should be given to

the date of purchase and the price paid for the property, the parties listed as having a financial interest, and whether any previous fires were reported. In our experience, comparison of this information has revealed the following: mortgagees who required insurance coverage on a building were never listed on the policy application; the actual purchase price was less than the amount listed on the application; no previous fires were listed where fires had actually occurred; the named insured was not the person who actually owned the property.

Speaking with Occupants and Residents

While canvassing the target building or area, interview building occupants and area residents. They will tell you what they believe is happening to cause the potential arson problem. Determine whether there are landlord/tenant disputes, disputes between residents, or a lack of building services, such as heat, hot water, electricity, trash collection or maintenance. If housing or building code violations have been cited, speak with the occupants of these units to obtain their account of how the building came to be inspected and cited for violations. View the units, if possible, to ascertain whether repairs are being made to correct the violations. Obtain the names and telephone numbers of leaders of tenant unions and community groups who are active in the building and the neighborhood. If this is a landlord/tenant dispute, find out when these groups first became involved and what actions they have taken. Determine whether the actions or reactions of occupants or members of these groups have precipitated the setting of a fire or may have provided a motive for arson.

Setting Up a Fire Watch

When fires have been taking place, or when the circumstances appear to make fires imminent, organize a "fire watch". The main purpose of a fire watch is to monitor the security, conditions, and persons in or around the building. Explain to the residents that no law enforcement agency can physically patrol the area twenty-four hours a day. Remind them that some residents are usually present at all hours of the day. Cooperation among neighbors is their best protection. Tell them to keep all exterior doors locked when they leave and enter the building, and to see that all interior doors to vacant units are secure. All unlocked vacant units should be reported to the owner to be locked. It is essential to keep all places which are accessible to an outsider free of combustible or flammable materials and all hallways and stairwells free of debris and obstruction. All occupants and residents must stay alert to unusual sounds and smells and attempt to identify all non-residents seen in the building. This would include any maintenance, repair or other workers who are not familiar to residents. If a stranger refuses to identify himself or appears to act unusually, the residents should immediately call police and report a trespasser, giving them a good description of this individual. (The prevention unit should notify the police of the existence of this fire watch in the event that the residents call for assistance.)

Patrols of the building should be organized when circumstances warrant it. Residents should patrol regularly in groups of two or more, but vary the times and routes. Patrols should include checking all door locks, hall windows, roof and basement doors, and basement areas, if accessi-

ble. They should report all doors in need of locks to both the prevention unit staff and the owner of the building. Where openings have been boarded up, any loose boards should be renailed. They should also report to the prevention unit the dates and times when apartments or buildings become vacant and any unusual activity they have observed. Although these calls may be numerous or seem a nuisance, only the prevention staff will be able to assess the relevance of these observations to the target profile they have developed.

Interviewing Building Owners

Interviewing the owner of the target building is necessary to:

1. Obtain additional information for your profile,
2. Get the owner's side of the story,
3. Make recommendations to prevent future fires, and
4. Make the owner aware that you are actively investigating the problem in his building.

The building owner will sometimes be reluctant to speak with you, particularly if he is aware that you have spoken with his tenants and inspected his building, and believes that you are investigating him. When speaking with him, an effective approach you may use is to state that you are aware of the problems associated with his building and that your goal is the protection and preservation of his property. It would be very unusual for an owner not to be concerned lest his property (a business asset) be damaged or destroyed by fire. Express your desire to remain objective and your need to get his version of the situation.

Ask the owner to recount the history of the building from the time he purchased it through the present. This should include a financial history as well as a rundown of incidents and disputes at the building. Also ask about his future plans for the building. Inquire about fire insurance coverage (all the items mentioned under "Insurance" in the previous section). If fires have occurred in this building or other buildings which he owns, ask for his explanation of the circumstances and causes of the fires. After the interview, compare the information provided by the owner with the information obtained from all other sources. This comparison will give you a sense of who is cooperating and being truthful and will allow you to assess the validity of disputed issues.

Make recommendations to the owner which will reduce the possibility of any fire. Ask that smoke detectors be installed if they are absent; that all doors to the building and unattended (vacant) areas be locked properly; that halls and basement areas be kept free of trash and flammable material; and that all code violations which contribute to fires or the spread of fire be rectified. Remember that you are asking the owner to protect his own property. If the problems are not corrected, he will be hard pressed to explain why your recommendations were not followed.

When necessary, take legal action to enforce health, fire and safety codes. If the building is being milked, your recommended actions should involve directing the income from the building (rents) toward repairs and the return of lost building services (heat, lights, locks, etc.). (See the section on litigation below for further discussion.)

If the building owner is well intentioned, but the income cannot cover the needed repairs, direct the owner to financial assistance programs, rehabilitation programs or any other agency which could help. If you have been successful working with the occupants of his building, you may be able to convince the residents to help rather than to impede the owner's efforts to improve building conditions.

Checking for Code Violations

Often building, health and safety code violations are present in arson-prone buildings, whether an official agency has actually cited them or not. Many of these substandard conditions could lead to a fire or provide motives for setting a fire. When you are in and around target buildings, take note of their condition. In your discussion with the building owner, find out which substandard conditions or code violations he is aware of, and ask that he remedy them. Ask that conditions which are prone to result in a fire be addressed first.

Several conditions which could contribute to the occurrence of fires in general and to related injuries are:

1. Exterior doors which are not locked properly;
2. Trash, combustible and flammable debris left in unsecured common areas or rooms accessible by residents or the public;
3. Leaking gas or fuel oil lines;
4. Lack of adequate heat during cold weather;
5. Faulty electrical wiring and fixtures;
6. Lack of smoke detectors;
7. Blocked exit doors;
8. Openings in walls and floors;
9. Paint cans, sawdust and other combustible byproducts of renovations left in unsecured areas.

Some violations may be too costly for the owner to correct and may therefore provide him with a financial motive for arson. These include:

1. Faulty heating, hot water, air conditioning, wiring, plumbing or other building equipment in need of extensive repair;
2. Porches, floors, walls and structural items in severe disrepair;
3. Insect and rodent infestation;
4. Lead paint in units with small children;
5. Windows, doors, lights and plumbing fixtures which are repeatedly broken.

These conditions provide a motive for setting fires because the remedies are often very costly to the building owner. If local laws provide for the withholding of rent until violations are corrected, the tenants may be causing these conditions in order to avoid resuming rent payments. In addition to rent withholding, some laws also provide that tenants cannot be evicted if their

units have violations. If major renovations are planned by the owner, he may be reluctant to spend money on immediate repairs. This could create a situation for a fire which would force occupants to vacate, thereby avoiding the costs of correcting housing code violations.

Although substandard conditions must be corrected, it is very important to use discretion. Vigorous code enforcement places additional financial stress on the building which could result in a fire. Work closely with the owner and occupants to permit the most reasonable and efficient means of repairs. If you must institute legal action in order to have the repairs made, notify fire and police officials and the insurance company that the building is undergoing increased stress. This would also be an appropriate time to organize a fire watch, if one has not yet been instituted.

When vacant buildings are targets, vigorous code enforcement is essential. Regardless of the cooperation of the owner, the local building department must be notified to have the structure immediately boarded up and secured (or torn down, if its condition is severe enough to warrant demolition). It must be realized, however, that boarding and securing a vacant building is at best a temporary measure. The only way to eliminate the fire potential of a vacant building is to have it renovated and occupied. This goal, however, is costly and may take a long time to accomplish. With this in mind, health, safety, fire, and building departments must constantly monitor the vacant buildings to insure that they remain free of combustibles, secure and kept from further deterioration. Back taxes are often owed on vacant structures. In these cases, the municipality can foreclose on these buildings and take control of their future.

Keeping Fire and Police Officials Aware

After you have identified a target building or area, notify the arson squad and those local fire and police officials who are responsible for the neighborhood. Ask them to pay particular attention to your target buildings and if a fire watch has been organized, to respond quickly to its calls. Provide the police and the arson squad with the names and telephone numbers of organizers of the fire watch so that they will have someone to contact whenever an incident occurs at a target building. If a fire does occur, provide the investigators with all pertinent information obtained through your research of the target profile. This information will quickly prepare them for conducting their own investigation. It will provide them with facts which they may not readily uncover, and with possible witnesses to the fire and to the events which led up to it.

Contacting Banks and Lending Institutions

Introduce yourself to mortgagees, officers of financial institutions or others with financial interests in the target building. Obtain relevant data on loan payments, cash flow problems and any actions they may be undertaking (for example, mortgage foreclosures, loan refinancing or lawsuits). Add this information to your target profile and monitor any changes in the situation.

Remember, regardless of who destroys a property by fire, mortgagees and parties with financial interests usually have the first claim to any fire insurance proceeds, unless it is proven that they were involved in causing the fire. If a mortgage is not being paid on a building which the mortgagee would not want to possess, this provides an incentive for the mortgagee to have it

burned. Historically, mortgagees claims on insurance were not often scrutinized. Thus mortgagees were not implicated in arson fires and were allowed to recover bad debts through insurance claims. If you discover mortgagees with an unusual incidence of mortgages on burned properties, deal with them in the same manner as you would building owners, using the approach that you are interested in protecting their assets.

Instituting Civil or Criminal Litigation

You should always consider the possibility of legal action to force the parties involved to address those problems that you have identified. If you are unwilling to institute legal proceedings whenever appropriate, your authority will be undermined and your program will become ineffective. You must give it careful consideration, however, before you use it. Some actions (for example, the enforcement of code violations) will put additional financial burdens on the owner. You must be careful not to force a cooperating owner to the point where he will consider burning the building just to be rid of it.

Nevertheless, both civil and criminal litigation can be effective tools in accomplishing your objectives. There are many state laws which you may find useful. (See the Appendix for a list of some applicable Massachusetts statutes.) In general, some of the more commonly used ones are:

1. *Temporary Restraining Orders and Preliminary Injunctions*

A temporary restraining order is an order granted by the court on a temporary basis which requires someone to either perform or refrain from certain actions. It can be sought where serious conditions require prompt action.

A preliminary injunction is basically the same as this, but will only be issued after a hearing at which the defendant has an opportunity to state his case.

2. *Actions To Enforce Housing, Building and Fire Codes*

Most laws relating to minimum standards for the maintenance of a building provide for civil and/or criminal enforcement actions. These actions can be to obtain orders to make repairs, install fire safety equipment, or to pay damages to tenants or fines to the enforcing agency.

3. *Attachments*

✧ An attachment is a legal device which stops an individual from selling or in any way transferring his property until the litigation is over. Types of assets which can be attached are bank accounts, land, vehicles or business inventories.

4. *Discovery*

Once litigation is commenced, each party has the right to review records and to take testimony under oath (called a deposition) of the other party, his employees or agents.

5. *Receiverships and Foreclosure Actions for Non-Payment of Property Taxes*

If a property is tax delinquent, the city or town may be able to obtain legal ownership through tax foreclosure proceedings.

Receivership is a legal proceeding which gives control of the property to a person or persons appointed by the court.

In addition to the above, you might consider the use of consumer protection and civil rights laws to prevent a landlord from harassing or deceiving tenants in attempts to empty a building or to collect rents while permitting the property to deteriorate.

Though attention is often directed to the owner, however, keep in mind that others may be the source of the problem. The Temporary Restraining Order and the Preliminary Injunction are two of the more effective legal procedures which can be employed in either case. They can be used to prevent potential firesetters and parties who cause problems from entering the building, and may provide for their subsequent arrest if they fail to obey the order of the court. These procedures can also be used to order prompt correction of serious code violations, especially if the defendants' assets (home, other buildings, bank accounts) are attached and held as security for the landlord's completion of the necessary repairs. Knowing that they may be brought to court is usually enough to prod all concerned parties to eliminate the circumstances contributing to the fire problem.

When the actual ownership of a building has been hidden through the use of straws, corporations or trusts, litigation may be used to expose the true owner of the building. After the filing of a suit, discovery procedures can be used by the attorney to obtain information which could not be gathered through normal investigative efforts.

If the buildings are in serious disrepair, it may be determined that control of the property should be removed from the current owner. One possible way of accomplishing this is through the procedures of receivership. Once a receiver is appointed by the court, he or she is responsible for collecting rents, making repairs and evaluating the long term solution to the building's problems. The viability of this strategy, however, should be carefully considered before it is pursued. One difficulty lies in the fact that the rental income may be insufficient to correct the major code violations which exist in the property. Another is that it may be difficult to find a competent receiver with whom the tenants will cooperate.

A second possible means of removing control from the owner is through foreclosure for non-payment of taxes. It is often the case with buildings in serious disrepair that significant back taxes are owed. This presents the opportunity for the municipality to foreclose and transfer the property to a more responsible owner.

The CAPES Program has utilized all of these various civil enforcement options and each of them has been successful when appropriately used. Criminal prosecution, however, remains our ultimate weapon. In those jurisdictions where the prevention agency lacks criminal law enforcement powers, it is essential that close links be forged with police and prosecutors. It is also critically important that in formulating your litigation strategy you weigh all your options, criminal and civil alike. Only by narrowly tailoring your legal response to each particular problem will you be able to create a truly effective arson prevention program.

CHAPTER FIVE

CASE STUDIES

The following cases describe some of the actual experiences of the CAPES Project in the implementation of these arson prevention strategies. They are not meant to be all inclusive, but rather are intended to convey a feeling for the manner in which some of these tactics may be used. The emphasis in these examples was on civil enforcement strategies. For a description of the criminal enforcement strategies used by this Department, you may refer to the narrative section of the original CAPES grant application.

Case A — Single Buildings with Numerous Fires

Profile

Through information given to us by community groups and fire department officials, we began an investigation into a number of fires taking place in a large, seventy-unit apartment house. This property is located in an area of Boston where buildings have rapidly escalated in value and numerous large fires have occurred.

Fire department records revealed that there were 15 small fires in our target building during the previous two months, usually starting in rubbish located in common areas or vacant apartments. The fires occurred between midnight and six in the morning.

The building was being rehabilitated and there were plans to convert the apartment units into condominiums. The building was vacant except for a handful of tenants who were being evicted but were opposing this action in court. Of the remaining tenants, many were Iranian students. This was at the time of the Iranian hostage crisis. Consequently, there was extreme tension in the building not only between the owner and the tenants, but also among the tenants themselves.

We had difficulty in gathering background information on the current owners because they were not from the New England area. Through public record research, however, we checked the prior owner and discovered that he had experienced a number of suspicious fires in other properties. He had recently declared bankruptcy and sold the property, but still maintained an office in the building. The current owners, however, seemed unconnected to him.

We developed a building profile by researching all available information concerning the property and the ownership of the property. We also interviewed fire department personnel concerning the fires in the building. Using this information we devised a strategy to stop the fires.

Strategy

We sent the current owner a letter requesting his fire insurance coverage. We then met with an inspector from the Department of Public Health and accompanied her on an inspection of the entire building. On a number of floors we found combustible trash left in open barrels in unsecured trash rooms. The trash rooms each had a chute directly emptying into a dumpster, but some of these chutes were clogged or the doors jammed shut. Vacant units were found with open

doors. Doors to the outside in the rear of the building and in the basement were found open with faulty locks. Smoke detectors were absent in some areas and a wing undergoing construction was unsecured and full of combustible debris from the work. All of these conditions constituted violations of the State Sanitary Code and were cited by the inspector.

While we were at the building, we met with the security force employed by the owner. During the inspection, the health inspector had found an intoxicated vagrant sleeping in a vacant unit and escorted him to the security officers in the lobby. We asked them to be more attentive and thorough in their patrols. We also asked them to keep all vacant units and exterior doors locked and to alert the housekeeping personnel to trash accumulating in the trash rooms on each floor.

Separate meetings were arranged with the on-site property manager and the president of the corporation which owned the building. We obtained their views of the situation and requested that they institute our fire prevention recommendations and correct the code violations. We stressed the installation of smoke detectors, providing adequate locks on all exterior doors, keeping trash accumulation to a minimum and keeping the wing under renovation secured against trespassers. An additional recommendation was to install locks on all stairwell fire doors which would permit access from the floors into the stairwell, but not from the stairwell to the floors. This would force anyone using the stairs to go to the first floor to exit. A security officer's station was located in the vicinity of this first floor stairwell exit and the elevator. If someone set a fire, he would then have to pass the security officer to exit. A second security officer patrolled the floors. The stairwell locks were installed and security strategy was discussed with the company providing building security. They also provided us with the security logs for the months the fires occurred and background information on the security personnel.

The fire department arson squad was notified and provided with the information developed. We also contacted the insurance carrier who was providing coverage for the building. They were unaware of the fire problem, because the trash fires had caused little actual damage and no claims had been filed. We asked them to reinspect the building to determine whether it was overinsured and/or still met the policy requirements. We did this because a motive on the part of the building owner had not been entirely ruled out at that time.

Meetings were arranged with the tenants in an attempt to diffuse the severe landlord-tenant conflict and make them aware that we were actively investigating all fires in the building. After our initial visible presence and discussions with all parties, the trash fires ceased. Monitoring of the situation and institution of our recommendations created an environment making the undetected setting of a fire difficult. The remaining tenants eventually vacated the building and renovations were completed without further incident.

Several months later we were contacted by the arson squad. They had arrested an individual for arson fires in another section of the city. After questioning, he confessed to the above series of trash fires. Our investigation had revealed that this person was a security officer who had usually been on duty at the building on the nights of the trash fires. In fact, he was the one who discovered several of them. As a result of our involvement, not only had the fires stopped, but the information which we had gathered was used to corroborate his admissions.

Case B — Multiple Buildings with Common Owner-Increasing Value

Profile

The CAPES Unit was contacted by community groups and a tenant union which were concerned with the number of fires in several buildings owned by one man. The tenant union related to us their fears that more buildings would burn. They told us that this individual owned about seventy apartment buildings in various neighborhoods located in one section of the city, and that his buildings had suffered an average of one fire a month during the previous year.

Initially, we researched his property holdings in the Registry of Deeds and found that he had purchased these properties during the last three years. At first, little was known about either the owner or his organization. We soon discovered that he had purchased the properties and obtained mortgage monies from individuals who also had a history of suspicious fires.

Through fire department records, we found fifteen fires in buildings owned by this individual. (As a result of one fire, an elderly woman lost her life.) These fires varied in origin and size. The fire department attributed most of the fires to suspicious or undetermined causes. During a preliminary interview of the landlord, he attributed the fires to the tenants' careless disposal of smoking materials.

The owner had received substantial settlements from his fire insurance company. The company had not investigated any of the fires but had spent their resources in developing subrogation suits. (Subrogation is a legal term for suing a party other than the insured who is believed to have caused the loss through negligence.)

This individual owns brick, multi-unit apartment houses. Many of the buildings have antiquated electrical and heating systems, which would cost a great deal of money to replace. He owed a substantial amount of money for unpaid water bills, and the water in his buildings was to be shut off in a matter of days.

A tenant union was active in his buildings. They organized during the previous year in response to a hundred dollar rent increase. The union was able to block most of the increase and was now suing the owner over building code violations and a lack of heat. The landlord disliked the union intensely, but it was gaining support among his tenants. Gradually, the union was organizing them, one building at a time.

As a result of our research, we discovered two fire patterns. The first consisted of fires that took place in or around the apartments of tenant activists. These fires were usually small in size and took place when the tenants were out. A second pattern emerged which indicated that the large fires often started in common areas or vacant apartments. These fires emptied the buildings and allowed the owner to renovate them. After renovation, several were converted to condominiums.

Despite the frequency of these fires, the owner had not complied with a local ordinance requiring the installation of smoke detectors. He claimed that he was putting in hard-wired units. There was some evidence of electrical work being done, but in two month's time not one detector had been installed.

Strategy

While completing our profile, we sent the owner a letter requesting his fire insurance coverage. We located tenants who had resided in the buildings which burned and interviewed them about building conditions, landlord-tenant disputes and the circumstances surrounding the fires. Tenants disagreed with the landlord's claim that most of the fires had been the result of careless smoking. In some instances it was determined that occupants of the burned units did not smoke.

After a fire in one building, all the tenants had been told to vacate. The owner claimed that the city had condemned the building due to the fire damage. A check of all pertinent city agencies revealed that the building had not been condemned. This building was being renovated and converted to condominiums after the fire. The Arson Prevention Unit filed suit against the owner alleging that the eviction of the tenants was illegal and in violation of the State Consumer Protection Act (Mass. Gen. Laws, Chap. 93A) and had been done for the purpose of converting the apartments to condominiums.

The company that insured these buildings was contacted. Through the use of the Commonwealth's Arson Reporting Immunity Law (Mass. Gen. Law, Chap. 148, §32), we reviewed its records. Ultimately the large number of fire losses and claims caused the company to decline to renew the policies as their coverage periods expired.

We met with tenants from buildings which we had targeted as having a likelihood of fires. We discussed fire prevention methods and organized fire watches in the higher risk buildings. Tenants patrolled the buildings at various hours of the night and kept all vacant apartment doors secured. They brought all unusual circumstances to our attention as well as conditions which would contribute to any type of fire, whether or not it was arson related. We responded immediately to all calls which we felt presented a possible fire problem. Code enforcement inspectors cited substandard conditions in the buildings when appropriate.

Arrangements were made with the alarm division of the fire department. We provided them with a list of streets and blocks with which we were concerned. When they received any alarms for these streets, they would notify one of our investigators. If it was for a target building, he would go to the scene. (The fire alarm personnel were provided with the investigators' home telephone numbers for night alarms.) Two target buildings had problems with smoky furnaces and whenever the fire department was called, one of our investigators would also go to the building. He would identify himself to the building management representative if one was present and request that the problem be rectified.

One morning we received a call from a tenant that a steampipe had burst in her basement apartment and that workers were trying to repair it. She had recently filed suit against the landlord to have maintenance problems in her apartment corrected. After this suit was filed, the landlord had begun the process to evict her. We immediately went to her apartment to interview her. (Prior to our involvement, one of this owner's fires occurred in a basement apartment after a steam pipe leaked. The tenant was advised to leave the apartment for a day or two until repairs could be made. The following evening, while the apartment was empty, a fire broke out and

destroyed the entire building. The last persons known to be in the apartment were the workers who were repairing the steam leak. The fire department was unable to determine the cause of this fire.)

The property manager for the owner arrived shortly after us and asked why we were there. We informed him that the last time a leak of this nature occurred, the entire building later burned down and that we wanted to insure that no fires resulted this time. We requested that the leak be repaired in enough time to avoid having the tenant leave the apartment unoccupied for the night.

The property manager called the owner who came to the building and met with us. The owner assured us that the repairs would be completed by the end of the day. He also gave us his version of why fires had been occurring in his buildings over the past several months. We offered recommendations to reduce the risk of fires and arsons in his properties. We stressed our concern about the number of fires he had been experiencing and related our desire to help him to protect against further fires.

After our suit was filed and the code violations were cited, smoke detectors were installed. Otherwise, little was done to comply with our recommendations. Due to this, we increased our presence at the buildings and our attorneys continued the suit against the illegal evictions. Due to this legal suit, the investigators were precluded from interviewing the owner or his employees about the fires or other incidents, without consent of their counsel. Our attorneys, therefore, deposed the owner and certain employees.

The fires subsided and the illegal eviction suit was eventually settled out of court. The settlement provided that a certain number of units would be rented for a set period of time at the prior rent level, rather than sold as condominiums. Former tenants were reimbursed for expenses they incurred when they were forced to relocate due to the fire.

We have continued to monitor these buildings and the activities of the owner by remaining in contact with the residents. Several of them continue to keep us informed of developments and problems as they occur.

Case C — Multiple Buildings with Common Owner-Decreasing Value

Profile

In one target area we identified an owner who had experienced a number of fires in her buildings over the previous ten years. Many of her properties were now vacant lots. Several of her buildings which were still occupied were in serious disrepair.

Initially, we made a thorough check of the records at the Registry of Deeds and at the city's building and tax departments in order to identify all of her property holdings. This was made difficult by the fact that she had used aliases and, in some cases, straws. We followed this up with a physical inspection of all her buildings to determine which ones were occupied. We then contacted local insurers to discover whether these buildings were insured against loss or damage by fire. Next, we spoke with the city's tax officials to learn the extent of back taxes owed on the properties. Finally, we checked with the code enforcement departments to see whether there were cases pending against her for code violations.

Strategy

Due to the fact that the landlord apparently had little or no assets and that her buildings were in extreme disrepair, we decided to take legal action in order to save the properties. This was done by utilizing two independent tactics. First we gave the city's collector-treasurer a list of the target buildings, and he agreed to initiate foreclosure proceedings for the non-payment of taxes.

The second tactic was to file two separate suits against the landlord under the State Consumer Protection Act. These suits alleged that she had employed various unfair and deceptive practices by virtue of her failure to adequately maintain the properties. The court, in both cases, issued injunctive orders which directed the landlord to: a) correct the existing code violations, b) account for all rental income received from tenants of the buildings, and c) not sell any of the properties or obtain any additional property without the permission of the Court. The latter provision was necessary in order to ensure that the landlord did not transfer the buildings to straws or others who would be difficult to locate. In addition, civil contempt orders were issued and fines were levied against her in order to induce her to repair the buildings.

Due to the fact that she had virtually no assets, part of our strategy was not as effective as we would have hoped. The overall strategy was successful, however, because the properties were transferred from her control to more responsible hands. Many of the buildings were taken by the city through the foreclosure proceedings and sold at public auction. As of this writing, the other buildings remain under the court's jurisdiction.

Case D Neighborhood Problem — Vacant Buildings

Profile

One neighborhood in Boston which was in close proximity to an urban renewal project was suffering a wave of fires. Its land was considered to have a future value much greater than its present. Although some development had taken place, the area had many vacant buildings and large lots of vacant land.

In a period of eight months there were twenty-one fires in the area. The residents were very frightened and wondered whether their homes would be next. Many rumors concerning these fires were circulating throughout the area.

A group of these residents contacted the CAPES Unit and asked for our help. Initially, we knew little about the area and why the fires were happening. In a visit to the neighborhood, however, we found an unusually large number of vacant buildings.

When we later reviewed the fire department's records, they revealed that many of the fires had taken place within a four block area, and more importantly, that nineteen of the twenty-one fires had occurred in vacant buildings.

Strategy

We attended a community meeting to discuss the problem. At this meeting, we stressed that the residents cooperate with the police and the arson squad, because collectively they probably had enough information to identify the arsonists. We pointed out that it could very well be

children from the neighborhood. We also asked them to provide us with a list of all unsecured vacant buildings. They eventually sent us a list of sixty. We passed this list on to the city's building commissioner and requested that his department securely board up these buildings or tear down those which were too severely damaged.

Meanwhile, we researched all sixty buildings for property ownership and tax arrearages. We also checked and determined that they were uninsured. Both insurance fraud and tenant displacement motives for these fires had therefore been ruled out. We concluded that many of the fires were attributable to vandals, who probably lived in the neighborhood.

We then met with the arson squad and related our findings. After this meeting, the arson squad interviewed members of the community. Residents provided enough information to identify a youth suspected of setting eight to ten fires. The arson squad developed sufficient evidence to arrest this youth and prosecute him for some of the fires. After he was arrested, the fires in the neighborhood stopped.

We continued our efforts to have the vacant buildings secured, in order to reduce the possibility of someone else setting them on fire. Unfortunately, a year later we were still trying to convince the city to board up most of them, when several were destroyed by fire. These latter fires were part of a city-wide problem which primarily involved vacant structures. At the time this manual was written, we were collecting and analyzing the data concerning this new situation.

These latest developments underline two of the major points which we have tried to emphasize in this manual. The first is that your program requires the full commitment and involvement of the chief executive of your community in order to insure its success. The second is that since vacant buildings have the highest incidence of arson, your priorities should be to have these buildings renovated and reoccupied, preferably owner-occupied. With a little creativity and a lot of perseverance the problem of arson can be significantly reduced.

APPENDIX

This Appendix lists some of the Massachusetts laws which can be of use in arson prevention strategies. In other states, you will have to determine whether similar laws apply.

I. MUNICIPALITIES

1. Violations by Insurance Companies & Brokers

G.L. c. 176D §§6 & 7 gives the Insurance Commissioner the power to revoke or suspend licenses or issue cease and desist orders for any actions in violation of insurance laws. Such violations might consist of overinsurance of a property which is prohibited by *G.L. c.175, §95* and *c. 176D, §3(12)*. Thus, the city or town could petition the Insurance Commission to investigate and hold hearings on such matters and could request the right to intervene and present evidence.

2. Payment of Municipal Liens from Insurance Proceeds

G.L. c.175, §97A provides that prior to the payment of any claim for a loss to property from any hazard, the insurance company must require that the owner provide them with a municipal lien certificate. All outstanding taxes and liens (including those for boarding and demolition) must be paid to the owner by the insurance company. This payment will usually take priority over any mortgagee or assignees, etc. This section *does not* apply to owner-occupied 1-4 unit dwellings.

3. Cancellation of Insurance or Non-payment of Claims

G.L. c.175, §99 provides that insurance companies can cancel a policy where the risk of fire has increased or the condition of the property has changed (i.e., become vacant) such that it becomes uninsurable, or for fraud in the application. Also no claims need be paid for losses in buildings vacant for 30-60 days depending on the size of the property. An insurance company can utilize this section to cancel insurance based on information supplied to it by the city or town.

4. Require Disclosure of Insurance Information by Owner

G.L. c.186, §21 permits law enforcement or code enforcement agencies to require an owner of residential units, except 1-4 unit owner-occupied buildings, to disclose the name of his insurance company and the amount of insurance.

5. Enforcement of State Sanitary Code

G.L. c.111, §127A et seq. and 105 C.M.R. 400 et seq. provide that local health departments can seek injunctions and fines to require landlords to make repairs to properties.

6. Enforcement of State Building Code

780 C.M.R. 100 et seq. allow a municipality to require correction of hazardous conditions in buildings pursuant to its power to enforce the state building code.

7. Tax Foreclosure

G.L. c.60, §1 et seq. allow local tax collectors to commence foreclosure proceedings against a property for failure of the owner to pay property taxes pursuant to *G.L. c.60, §64 et seq.* For property of low value or abandoned property the process can be expedited (*G.L. c.60, §§79 and 81A*). The tax collectors can also sue the owner directly for taxes owed under *c.60, §35* in a contract action.

8. Securing or Demolishing Unsafe Buildings

Under *G.L. c.143, §1 et seq.* municipalities can order the owner of a building, which has been determined to be unsafe, to secure, demolish or otherwise correct any problems. Failure of the owner to act once an order is issued will permit the town to perform the appropriate work and place a lien on the property to recover its costs.

9. Fraudulent Conveyance to Avoid Debts

Under *G.L. c.109, §1 et seq.* any creditor (including a city or town owed money for taxes, code enforcement, demolition, etc.) can institute an action to set aside certain transferred property by a person who is attempting to avoid liability for payment of debts.

10. Transfer of Property to Avoid Code Enforcement

G.L. c.111, §1270 makes it a criminal offense for any person to transfer ownership of a property to avoid compliance with an order issued pursuant to the State Sanitary or Building Code.

11. Common Law Fraud and Piercing the Corporate Veil

Often a property owner tries to hide his/ her legal responsibility for taxes, repairs or other duties related to property ownership, behind the shield of a corporation, straws or other fraudulent ownership entities. A viable legal option on the part of a town is to initiate proceedings to have the court disregard the technical legal ownership of the property and hold the person responsible who has actual control over the property.

12. Public Nuisance

Under *G.L. c.139, §139 et seq.* the town has the power to order unsafe buildings demolished or perform the work and charge the owners.

II. STATE AND LOCAL FIRE AUTHORITIES

1. Investigations of Potential Fire Hazards

G.L. c.148, §§4 & 5 empowers state and local fire officials with the authority to investigate and enter property, at reasonable times, to determine whether any fire hazards exist. If the investigation is based on a complaint of an adjacent property owner and it is determined that a fire hazard exists, the fire chief may order the owner to correct the condition within twenty-four hours. If the condition is not corrected the fire department may enter the premises, correct the condition and place a lien on the property to

recover the cost of this action. (See also the provisions of the Board of Fire Prevention Regulations 527 C.M.R. 10.00 relating to fire extinguishers and proper fire exists in all buildings.)

2. Smoke Detectors

G.L. c.148, §§26B-26F & 27A require smoke detectors in most buildings and give the local fire department the authority to require the placement of detectors and other fire alarm systems. The removal or any obstruction of one of these devices can be punished by criminal penalties.

3. Obtaining Insurance Information

G.L. c.148, §32 provides that as part of any investigation of a fire the State Fire Marshal may require an insurance company to provide relevant information. The statute provides that the Marshal shall share this information with other fire departments and law enforcement agencies upon request. The statute also protects the insurance company from any liability to its policy holder for release of this information.

4. Prohibiting Possession of Explosive Devices

G.L. c.148, §§35, 39 & 50 prohibit the possession, storing or keeping of explosive or combustible material, and provides fines or jail terms for conviction. In addition, section 50 provides for search warrants and arrests without warrants for matters relating to these sections.

III. CRIMINAL STATUTES

1. Arrest for Possession of Combustible Materials

G.L. c.148, §§35, 39 and 50 provide fines, jail terms, search warrants and arrest without warrants in cases involving the possession, storing or keeping of combustible or explosive material.

2. Arson as a Crime and Related Statutes on Explosive Devices

G.L. c.266, §§1, 2 and 5, 101-102B

3. Criminal Prosecution of Fraudulent Insurance Claims

G.L. c.266, §111A

IV. STATUTORY RIGHTS OF INDIVIDUAL TENANTS

1. Relocation Benefits from Property Owners Pursuant to Fire Insurance Coverage

G.L. c.175, §99 requires all fire insurance policies to contain relocation benefits up to \$750 per tenant who is forced to move from his or her unit due to a fire. This section could be enforced by the Attorney General under the Consumer Protection Act, c.93A or under

G.L. c.95 §189 which provides penalties for violation of any provision of c.175; the District Attorney could also use this enforcement tool.

2. Require Owner to Disclose Insurance Coverage

G.L. c.186 §21 allows any code or law enforcement agency or tenant to require the owner of a residential property to disclose the name of his insurance company and the nature of his coverage. This does not apply to owner-occupied 1-4 unit buildings.

3. Consumer Protection Act

G.L. c.93A, §1 et seq. permits actions for injunction and restitution for unfair and deceptive practices.

4. Rent Withholding

Under *G.L. c.111, §127 et seq.* tenants can withhold rent, make repairs and deduct the costs in order to correct conditions which make the property unfit for human habitation.

5. Private Nuisance

G.L. c.243, §1 et seq. pertains to damage to abutters due to conditions which may cause a fire or are likely to create hazards.

V. INSURANCE COMPANIES

1. Protection for Disclosure of Information to State Fire Marshal

G.L. c.148 §32 provides that when the Fire Marshal requests information in connection with an investigation of a fire, no company, agent or broker shall be liable for information supplied.

2. Cancellation of Policies for Increase in Hazard or Vacant Property

G.L. c.175 §99 permits cancellation where the risk of loss has increased due to means within the control of the insured or after the property is vacant for 30-60 days, depending on the size of the building.

3. Requirement of Information from Insured on Actual Cash Value and Actual Ownership of Property

G.L. c.175 §98 provides that all applications for insurance shall require sufficient information to determine actual cash value and actual ownership of property.

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